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SUBJECT: OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES
AND ACTIVITIES

OPR: PERSONNEL OFFICE

1.0 PURPOSE

To establish guidelines to ensure that all persons are provided with an opportunity to participate in, and benefit from, programs, services, and activities administered by the Department of Human Services.

2.0 REFERENCES AND DEFINITIONS

2.1 REFERENCES

Title VI of the Civil Rights Act
Americans with Disabilities Act
U.S. Department of Health and Human Services, Office for Civil Rights, Policy
Guidance: Prohibition Against National Origin Discrimination as it Affects Persons
with Limited English Proficiency
Food Stamp Act
Hawaii Revised Statutes, Chapter 489
Hawaii Revised Statutes, Chapter 368, 1.5
Hawaii Revised Statutes, Chapter 371, Part II, 371-31 to 37 Language Access
Hawaii Administrative Rules, Title 11, Chapter 218, Utilization of Sign
Language/English and Oral Interpreter Services
Administrative Directive 07-01, Equal Opportunity to Participate in Programs and
Services

2.2 DEFINITIONS

- a. Auxiliary aids and services – A wide variety of equipment, materials and personal services that may be used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities.

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- b. Department- Department of Human Services
- c. Director - Director of the Department of Human Services
- d. Interpreter – A sign or other language interpreter who has the knowledge, skills, and abilities to interpret in more than one language.
- e. Limited English Proficient (LEP) - An LEP individual is a person who is unable to speak, read, write or understand the English language at a level that permits him or her to interact effectively with health and social service agencies and providers.
- f. Organizational Units - All administratively attached agencies, staff offices and divisional segments that comprise the Department.
- g. Person with a Disability – An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such impairment.
- h. Service Provider - A person, or a group of persons, an agency, organization, institution, political subdivision, that delivers a program, service or activity with federal or state financial assistance through contractual, licensing or other arrangements with the Department.

3.0 POLICY

It shall be the policy of the Department of Human Services to provide all persons with an equal opportunity to participate in, and benefit from, all departmental programs, services and activities. Affirmative Action goals will be set as needed.

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3.1 Services Provided by Contractors or Sub-recipients

- a. This policy extends beyond those programs, services and activities administered directly by the Department. This policy applies to all contractors, service providers and other sub-recipients that receive federal and state funds that provide services on behalf of the Department.
- b. The Department or its organizational units will not approve any application for or make any expenditures of federal or state funds for the establishment, conduct or continuation of any program or activity, until the service provider furnishes an assurance in writing to comply with all of the requirements imposed by, or pursuant to, the applicable federal and state laws and regulations.
- c. Each program will be responsible for securing that written assurance of compliance and for monitoring the service delivery practices of the service provider to ensure compliance with the applicable laws, regulations and this policy.

3.2 Dissemination of Information

- a. Programs shall inform clients, applicants, potential applicants, and related program participants, that the Department's programs, services and activities are provided in a manner that is free of discriminatory practices. Additionally, such individuals shall be informed of their right to file a complaint with the Department or appropriate enforcement agency.
- b. All such information and assurance of compliance statements, shall be included as a provision in all contracts, grant assignments, licensing agreements, and other similar documents that are used in the administration of programs, services and activities of the Department of Human Services.

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3.3 Maintenance of Records and Reports

- a. The Department will maintain such records and submit such reports as may be required by federal or state agencies to assure compliance with the regulations.
- b. The Department will require such program, agency or facility receiving federal or state financial assistance directly or through contractual, licensing or other arrangements with the Department, to maintain and submit those records and reports deemed necessary to determine compliance.

3.4 Comparable Level of Service

- a. The Department shall take the necessary steps to ensure that resources are available to provide all persons with an equal opportunity to participate in the programs, services and activities administered by the Department. The level of service shall be equally effective as that provided to the general public. Accordingly, each program, service or activity shall be responsible to ensure that:
 1. no person is denied program services or benefits because of the person's inability to communicate in the English language; or due to a disability; and
 2. each unit employee shall arrange for a sign or language interpreter for anyone requiring such accommodation in order to access benefits or services.
- b. To promote a comparable level of service to that provided the general public, programs or activities that have substantial participation of LEP persons or persons with disabilities, shall take the necessary steps to furnish vital program information and notices in the appropriate languages. or in alternate format.

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- c. To ensure that all persons are provided an opportunity to participate in, and benefit from, our programs, services and activities, we must eliminate barriers that may preclude meaningful access for otherwise qualified individuals who might have special needs. In particular persons with disabilities and those with limited English skills might require assistance to access and participate in our programs, services and activities.


1. Providing Access for Persons with Disabilities

Federal and State laws such as the Americans with Disabilities Act, the Rehabilitation Act and the Hawaii Revised Statutes, 371 and 268 prohibit discrimination against individuals with disabilities.

Further it is the policy of the State of Hawaii that, "no qualified individual with a disability is excluded from participation in, denied the benefits of or is otherwise subjected to discrimination by any program, service or activity of the State of Hawaii on the basis of disability."

In keeping with this policy and to meet our obligation under the law as well as benefit from the ideas and efforts of individuals with disabilities, the DHS shall take the following actions:

- (a) Make reasonable modifications to our policies, procedures and practices, to ensure that persons with disabilities are not excluded from participation;
- (b) Provide auxiliary aids and services (i.e., Sign and other language interpreters/translators, TDDs, telephone relay service, large print, Braille, audiocassette, transcribers and so forth) to ensure effective communication access for persons with disabilities, taking into consideration the requesting individual's preference; and
- (c) Ensure our offices that serve the public on a regular basis are accessible. If this is not readily achievable, services shall be programmatically accessible to qualified individuals.

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2. Providing Access for Limited English Proficient (LEP) Persons

Title VI of the Civil Rights Act states, "no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The exclusion of LEP persons from our programs because of their inability to communicate in English, could be considered a form of national origin discrimination.

In order to comply with Title VI and to benefit from the opportunities to serve LEP persons as well as ensure that they are free from discriminatory practices, we must take the following steps to assure that all eligible persons with LEP have meaningful access to benefits and services we provide.

- (a) Ensure that LEP persons are informed of their right to be provided with interpreter and/or translation services free of charge.
- (b) Translate written materials that are routinely provided in English into regularly encountered languages other than English. It is particularly important to translate vital documents such as applications, consent forms and notices regarding denial or changes in benefits into other languages.
- (c) Contact qualified individuals and organizations, profit and/or non-profit, such as educational institutions, religious organizations, community entities, when interpreter and/or translation services are needed. Utilize qualified bi-lingual staff as well as other qualified multi-lingual individuals who have volunteered to serve as interpreters and/or translators.

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- (d) Utilize technology effectively to promote communication and understanding about programs.

Discrimination will not be tolerated by the DHS. We have an opportunity and obligation to provide services through processes that are free of discriminatory practices.

Employees who engage in discriminatory conduct shall be subject to disciplinary action in accordance with the applicable personnel rules and regulations and/or bargaining unit agreement.

4.0 SCOPE

This policy and procedure applies to all departmental organizational units and administratively attached agencies, employees, clients and potential clients, service providers and contractors.


5.0 RESPONSIBILITIES

5.1 Director

Ensure that all programs, services and activities administered by the Department are provided in an environment free of discriminatory practices.

5.2 Civil Rights Compliance Staff (CRCS)

- a. Develops, coordinates, monitors and maintains all departmental programs related to civil rights and access to services, in accordance with the appropriate federal and state laws and regulations.
- b. Develops and implements policies and procedures relative to providing an opportunity to participate in programs, services and activities.
- c. Provides technical assistance and staff support to the Director, Deputy Director and supervisory personnel in matters concerning non-discrimination in the provision of services.

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- d. Investigates complaints of discrimination in accordance with section 4.10.1 of this Policy and Procedure Manual.
- e. Establishes and maintains a Volunteer Interpreter List of employees and disseminate to each program or activity. The list shall be updated on a semi-annual basis.
- f. Works in consonance with personnel in staff offices and divisions on matters relating to equal opportunity in the provision of services.
- g. Negotiates settlements for, or submits recommendations to the Director for review.

5.3 Executive Director/Staff Officers/Division Administrators

- a. Ensures programs are provided in a non-discriminatory manner to all eligible persons.
- b. Coordinates the Department's compliance programs, services and activities as they relate to their respective organizations.
- c. Provides direct assistance to the Civil Rights Compliance Officer in civil rights-related matters as deemed necessary.
- d. Disseminates list of volunteer employee interpreters to their respective organizational units.
- e. Notifies prospective and actual applicants and clients of their right to interpreter and other services at no cost, in order to ensure access to all departmental programs, services and activities.

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5.4 Program Administrators (includes Division, Branch and Section)


- a. Identifies the language and access needs of their clientele, and persons in the community likely to be affected by their program. Further, they are responsible for planning and administering the program, service or activity in a manner that does not openly result in, or have the effect of, treating a person or a group of persons unfairly.

5.5 Supervisors

- a. Supervisors must ensure the consistent application of the Department's non-discrimination policy and method of administration in the provision of programs, services and/or activities to the public.
- b. Inform each employee of the procedures to provide meaningful access to all individuals, including LEP persons and people with disabilities.

5.6 Employees

- a. Implement and consistently apply the Department's non-discrimination policy and method of administration in the performance of their jobs. This includes, and is not limited to:
 1. assisting a client, applicant or potential applicant in order to provide meaningful access to programs, services and activities provided by the Department.
 2. explaining to applicants, potential applicants and clients their rights, including the right to language assistance, access and the right to file a complaint;
 3. providing auxiliary aids and services and materials in alternate format when requested by a person with a disability; and
 4. assisting a person in the complaint process.

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- b. Inform clients and applicants of the availability of language assistance, auxiliary aids and services and the provision of materials in alternate format.
- c. Arrange for a sign or other language interpreter on behalf of the requesting LEP individual and hearing impaired individual, respectively.

6.0 PROCEDURES

6.1 Access to Programs, Services and Activities by LEP Persons

a. Oral Interpreters


1. When a request for an interpreter is made either orally or in writing, the employee shall determine whether bi-lingual staff in the office or a nearby unit is available who speaks the language being requested.
2. When bi-lingual staff is not available, the employee shall contact a language agency to provide interpreter services.
3. The employee shall contact the language agency at least two weeks before the scheduled appointment with the requesting LEP person. Provide the following information to the language agency:
 - (a) requesting employee's full name and telephone number
 - (b) department, unit and address;
 - (c) employee's telephone number;
 - (d) language needed;
 - (e) client's full name;
 - (f) date and time of appointment;
 - (g) purchase order number
4. Employees may ask the language agency interpreter to call the LEP individual to inform him/her of the scheduled appointment.

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5. Upon completion of the appointment, an Encounter Form provided by the interpreter is completed and signed by the departmental employee and the interpreter. Information on the form includes the end time of the appointment, the nature of the encounter, and the interpreter's full name and signature.
 6. The employee may cancel the request for interpreter, however, if the interpreter is not contacted in time, the Department will be charged a minimum of one hour even though no services are provided.
 7. When the above alternatives are not possible or practicable, the employee shall contact a volunteer interpreter from the Volunteer Interpreter List, which is disseminated by CRCS.
 - (a) The requesting employee shall determine first whether interpreting by the volunteer employee may be informed via telephone to minimize the time the volunteer spends interpreting and away from his/her regular duties.
 - (b) If possible, volunteer interpreters should be familiar with the program for which interpretation is needed.
 8. Telephone interpreter services are available for brief encounters as are video phones and voice recognition packages. Programs shall have internal divisional procedures for utilization of such services.
- b. Translated Materials
1. Division Administrators and Staff Officers shall determine what informational program materials and vital documents shall be translated into languages other than English. This determination shall be based on guidelines set forth in the U. S. Department of Health and Human Services, Office for Civil Rights, Policy Guidance: Title VI Prohibition Against National Origin Discrimination as it Affects

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Persons with Limited English Proficiency. Policy Guidance can be obtained from the CRCS or the Director, DHS website, www.dhs.hawaii.gov.

2. Executive Director/Staff Officers/Division Administrators shall also assess the language needs of their respective project areas to determine the languages that will be translated, to ensure meaningful access to the language groups of people eligible to be served or likely to be affected by the program.

6.2 Access to Programs, Services and Activities by Persons with Disabilities


a. Program Access

Programs are required to operate in such a manner that, when viewed in their entirety, are readily accessible to persons with disabilities. This means making reasonable modifications to program policies, procedures and practices to ensure that persons with disabilities are afforded an opportunity to participate in programs, services and activities of the Department.

Modifications include, and are not limited to:

1. making home visits in lieu of office visits;
2. conducting interviews over the telephone rather than in person; and
3. providing services in an alternate accessible site without compromising confidentiality.

Programs shall not modify policies, procedures or practices if it is determined that a modification would result in a fundamental alteration to the program or create an undue financial or administrative burden. In such situations, the program shall consult with the CRCS to ensure compliance with the applicable laws, rules, regulations and this policy.

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b. Communication Access

The Department shall ensure that persons with communication disabilities have a means of communication that is as effective as that provided to persons without disabilities. Programs shall provide an effective means of communication with people who have hearing, visual, speech or cognitive disabilities by providing auxiliary aids and services. Programs shall take into consideration the preferences of the requesting individual when providing an auxiliary aid or service.


Programs shall not provide an auxiliary aid or service if it will fundamentally alter the program or create an undue financial or administrative burden. Under these circumstances, the program shall consult with CRCS to ensure compliance with the applicable laws, rules, regulations and this policy.

1. Hearing Impairments

Examples of auxiliary aids and services for people who are hearing impaired include, and are not limited to:

- qualified interpreters
 - note takers or computer assisted note takers
 - written material
 - real-time transcription or video text displays
 - amplified and hearing aid compatible telephones
 - assistive listening devices
 - open and closed captioning
 - caption decoders
 - TTYs (teletypewriters), TDDs (telephone devices for the deaf), or TTs (text telephones)
- (a) Procedures for Obtaining Qualified Sign Language Interpreters

Departmental staff shall obtain a qualified sign language interpreter in accordance with Hawaii Administrative Rules Title 11, Chapter 218.

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Interpreters shall be nationally-certified or hold a local certification awarded by a local screening agency.

Appropriate certification level of the interpreter will depend on the nature of the meeting or appointment.


When it is determined that a sign language interpreter is necessary for effective communication, the requesting employee shall contact an interpreter referral service agency with the following information, to obtain a sign language interpreter:

- (1) requesting employee's full name
- (2) employee's telephone number
- (3) location of meeting
- (4) purpose of the meeting
- (5) date of appointment
- (6) start and stop time
- (7) interpreter preference of hearing impaired individual
- (8) on-site contact person and telephone number (if different from requesting employee.)

2. Visual Impairments

Examples of auxiliary aids and services for people who have visual disabilities include, and are not limited to:

- printed information on tape cassette or computer diskette, in Braille, or large print, or read by skilled readers;
- verbal description of action and visual information to enhance the accessibility of performances and presentations; and
- a staff member serving as a guide to enable a person who has limited vision to locate items or to find his or her way along an unfamiliar route.

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3. Cognitive Impairments

Examples of auxiliary aids and services for persons with cognitive impairments, include and are not limited to:

- readers
- communication assistants
- rewording of information to use clear and concise language
- pictograms
- graphic presentation of information

4. Speech Impairments

Examples of auxiliary aids or services to persons with speech impairments include, and are not limited to:


- written material
- more active and acute listening on part of listener
- communication assistants who are familiar with person's speech
- typewriter, TTYs or TDDs.

c. Physical Access

The Department shall ensure that all programs, services and activities, when viewed in their entirety be accessible to persons with disabilities. This includes ensuring all DHS offices that serve the public are structurally accessible to persons with disabilities, in accordance with administrative directives related to facility access.

1. State Buildings

Programs shall work with the DAGS, Planning Branch, and the Fiscal Management Office to ensure that existing state buildings are upgraded, when necessary, to meet minimum access requirements. If this is not readily achievable, Programs shall assure that access is achieved programmatically.

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2. Leased Facilities

The Department shall lease office space in accordance with Comptroller's Memoranda, Policy Guidance and Procedures for Leasing Office Space to Ensure Program Access for Persons with Disabilities.

The Department shall ensure that organizational units in leased facilities are accessible to persons with disabilities. The programs shall work with the DAGS, Leasing Branch, when negotiating a new lease or lease renewal.

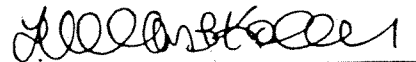
Administrators and Unit Supervisors or a designee shall accompany DAGS in a walk-thru of a prospective leased facility. The programs shall utilize the survey tool provided by DAGS when performing site assessments to determine whether or not the facility meets minimum access requirements.

7.0 IMPLEMENTATION

With the approval of this policy statement and procedures by the Director, the Department's access policy and method of administration shall be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

This part shall supersede any prior directive concerning access to programs, services and activities. Authorized modifications of content will not affect the life of these policies and procedures, unless so specified by the Director.

Approved:




Director

Date:

SEP 17 2007

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SUBJECT: HARASSMENT

OPR: PERSONNEL

1.0 PURPOSE

To establish a policy that prevents harassment in the Department of Human Services, thereby fostering respect and enhancing the morale and efficiency of employees, applicants, potential applicants, and clients.

2.0 REFERENCES AND DEFINITIONS

2.1 References

Civil Rights Act, Title VI and VII
Age Discrimination in Employment Act
Americans with Disabilities Act
Hawai'i Revised Statutes Chapter 378-2, Part I
and others

2.2 Definitions

Harassment - Harassment based on a person's membership in a protected group (race, color, sex, religion, national origin, ancestry, age, disability, sexual orientation, marital status, arrest and court record, income assignment for child support, national guard absence, uniformed service, breastfeeding, political beliefs or citizenship status) is unlawful when unwelcome behavior becomes so severe and pervasive that it alters a person's terms and conditions of employment, unreasonably interferes with work, or creates an intimidating, hostile or offensive environment.

(Behavior that does not meet this definition may be addressable by changes in management practices or by corrective action under other personnel policies.)

Sexual Harassment - Unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature, is unacceptable when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of services;
- submission to or rejection of such conduct by an individual is used as the basis for employment or receipt of services decisions affecting said individual; or
- such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.

Examples of verbal sexual harassment might include, and are not limited to, offensive and derogatory comments, jokes of an offensive nature, innuendoes, unwelcome repeated requests for dates or obscene or graphic descriptions of an individual's body, and threats made to a person who refuses a sexual advance.

Examples of non-verbal sexual harassment may include, and are not limited to, sexually suggestive or offensive objects or pictures, written comments, suggestive or offensive sounds, whistling, catcalls or obscene gestures.

Sexual harassment with respect to terms and conditions of employment might include treating a person differently when that individual refuses a sexual advance. Examples of such disparate treatment include, and are not limited to, limiting benefits which other employees presently receive

and enjoy, refusing to grant a promotion, giving someone a negative evaluation which does not reflect that person's actual performance, and demoting or terminating a person.

Sexual harassment with respect to provision of services might include treating an applicant, potential applicant, service provider, contractor or client differently when that individual refuses a sexual advance.

3.0 POLICY

All employees and applicants for employment or services shall be entitled to an environment free of discrimination, including harassment. Harassment based on a person's membership in a protected group is strictly prohibited, and will not be tolerated at DHS.

4.0 SCOPE

This policy applies to all departmental organizational units, employees, clients, applicants, and potential applicants for employment and services, service providers, and contractors. This also includes individuals subjected to unlawful harassment because of their association with persons who are protected by anti-discrimination law.

5.0 RESPONSIBILITIES

5.1 Managers and Supervisors

Managers and supervisors shall ensure an environment that is free from discriminatory practices relating to harassment and discrimination.

Managers and supervisors, who witness or receive reports of harassment, shall take immediate and appropriate action to ensure that the harassment ceases.

Managers and supervisors shall conduct an inquiry and/or investigation of complaints of alleged harassment.

Supervisors will ensure consistent application of the Department's Harassment policy and method of administration in the unit's provision of programs, services, contracts with service providers, and/or activities to the public.

5.2 Employees

Employees are expected to conduct themselves appropriately while at work and during work-related functions. Employees who experience or observe any job-related harassment or believe they have been treated in a disrespectful manner, have a duty and responsibility to report the incident(s) in order to correct and prevent harassment.

6.0 PROCEDURES

Complainants should follow the appropriate DHS Departmental Discrimination Complaint Procedure (P&P Manual 4.10.1 or 4.10.3) when filing complaints of harassment which are discriminatory in nature. In implementing this policy and procedure, the following shall apply.

Confidentiality

Confidentiality will be maintained to the extent possible to successfully conduct a thorough investigation. Information regarding the complaint will be shared with appropriate individuals on a "need to know" basis. Complainants will be asked to sign a consent/release form indicating their consent or denial of consent to release information. (Appendix A)

Retaliation

The Department of Human Services prohibits retaliation against any individual, who files a complaint of harassment, participates in complaint proceedings or who otherwise opposes acts of harassment.

Violations of Policy

Employees who violate this policy shall be subject to disciplinary action in accordance with the respective collective bargaining agreement and related DHS Policies.

Disciplinary action shall be designed to correspond with the seriousness of the action, and be reasonably calculated to stop the harassment and to ensure that the harassment will not recur.

7.0 IMPLEMENTATION

This policy shall be effective as of the date of approval and shall remain in effect until cancelled or superseded.

APPROVED: Allen Stoller

Director

SEP 17 2007

DATE: _____

CONSENT / RELEASE FORM

Your Name: _____

Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for DHS, CRCS, to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS Policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

Initial on line above if
you give consent.

CONSENT GRANTED -- I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records, and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

Initial on line above if
you deny consent

CONSENT DENIED -- I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, and may result in the investigation being closed.

Signature

Date

Please return completed, signed and dated form to:

State of Hawaii
Department of Human Services
PERS/CRCS
P.O. Box 339
Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov